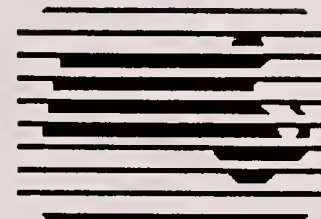


MASS. CA22,3: 96-1

UMASS/AMHERST
312066 0362 9079 9
GOVERNMENT DOCUMENTS
COLLECTION

NOV 13 1997

University of Massachusetts
Library Copy



Massachusetts
Cable Television
Commission

John D. Patrone
Commissioner

Rate Bulletin

Bulletin 96-1

April 10, 1996

In February, Congress passed the Telecommunications Act of 1996, the first major change in telecommunications law in over 60 years. This comprehensive new law makes dramatic changes in the way cable operators, telephone companies and broadcasters are regulated by eliminating entry barriers into a variety of telecommunications businesses. The law's goal: increased consumer choice and lower rates for consumers through competition.

Congress also made some important changes in the area of rate regulation, which we discuss below. Please note that the Federal Communications Commission ("FCC") will be implementing rules throughout the next year that may change some of the information provided here. We thought it important, however, to provide all issuing authorities with some basic information quickly. We have highlighted the most important changes in rate regulation below:

I. ALL RATES. As you know, since 1992, the Commission has regulated basic rates while the FCC has regulated the expanded basic or cable programming service tier ("CPS"). (Cable Programming Service is the level of service above basic, which generally includes satellite-delivered programming such as MTV, C-Span, Lifetime, Discovery, etc.) The new law retains this dual jurisdiction, but with some important overall changes. *First*, as explained below, all rate regulation ceases when there is *effective competition* in the video market place, which Congress has re-defined. *Second*, *the FCC will no longer regulate CPS rates after March 31, 1999, whether or not there is effective competition.*

The presence of effective competition in a community continues to trigger deregulation of both basic and CPS rates. The old effective competition standard contained a three prong test; the new law adds a fourth prong. A cable system is presumed to face effective competition if it meets any one of the following four tests: (1) it serves fewer than 30 percent of the households in its franchise area; (2) another unaffiliated multichannel video programming distributor is available to 50 percent of its franchise area and 15 percent of the households *actually* subscribe; (3) the franchise area is served by a municipal cable system; or (4) a local telephone company offers comparable video programming directly to subscribers, regardless of how the video is distributed or how many people subscribe to it. This provision does not include video programming provided via direct-to-home satellite services.

II. BASIC RATES. The law retains the Commission's role in setting basic cable programming and equipment rates until cable operators face effective competition in the franchise area. Unlike CPS regulation, basic service regulation does not *automatically* sunset on March 31, 1999. Note that in communities where social contracts have been negotiated between the cable operator and the FCC, basic rates are subject to the provisions of those contracts.

III. CPS RATES. As noted above, the most important change in CPS rate regulation is that it will end on March 31, 1999. In addition, while the new law preserves the FCC's authority to regulate CPS rates based on complaints it receives regarding unreasonable CPS rate increases, the procedure for filing those

complaints has changed. Below, we outline the new federal CPS complaint procedures and the role the Commission, the local issuing authorities and the individual subscriber will now play in initiating CPS rate regulation. Keep in mind that the procedures outlined in this Bulletin may change depending on any new FCC rules.

The FCC will no longer accept CPS rate complaints filed directly by subscribers. Previously, the FCC regulated CPS rates when it received a complaint from a "subscriber, franchising authority, or other relevant state or local government entity." Thus, receipt of only one subscriber complaint would trigger FCC regulation. Under the new law, the FCC will regulate CPS rates only when subscribers first file complaints with franchising authorities within 90 days of a CPS rate increase. Moreover, a franchising authority *may* file a complaint only if it receives subscriber "complaints" (presumably, at least two complaints). For rate regulation purposes, the Commission has and continues to be the only certified franchising authority in Massachusetts. **Therefore, only CPS rate complaints filed by *the Commission* will be accepted by the FCC.**

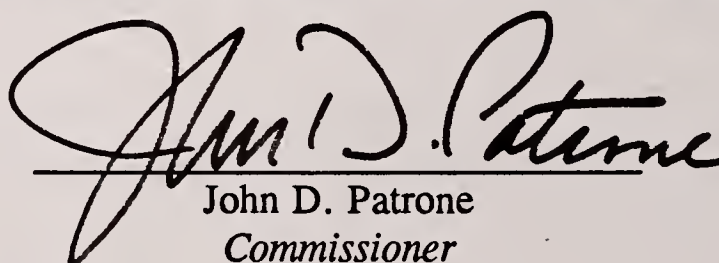
Thus, subscribers must file rate complaints with the Commission within 90 days of the effective date of the CPS rate increase. Cable operators and local governments should provide subscribers with a copy of the attached Commission CPS complaint form on request. Subscribers should use this form when filing CPS rate complaints with the Commission and all complaints should be accompanied by a copy of the bill reflecting the rate increase. In addition, subscribers must send a copy of the complaint to the cable operator and local issuing authority at the same time they send the complaint to the Commission.

If the Commission receives more than one timely complaint, it will review the complaints to determine the appropriateness of filing a Form 329 with the FCC. If the Commission deems the complaint warrants a referral to the FCC, it will file the Form 329 with the FCC and send a copy of the Form 329 to the complainant, the issuing authority and the cable operator. In addition, it will notify each party of the FCC's decision. If the Commission finds the complaint(s) are not appropriate, it will so notify the complainant(s) issuing authority and the cable operator.

A copy of the Commission's new CPS Rate Complaint Form and the FCC public notice regarding subscriber complaint filings are attached. Please address any questions regarding the Commission's complaint form to Christine O'Toole, the Commission's Complaint Investigator.

IV. SMALL SYSTEM EXEMPTIONS. Cable operators that serve fewer than 650,000 subscribers nationwide and have revenues in the aggregate that do not exceed \$250 million are exempt from CPS rate regulation *immediately* under the new law. The Commission will continue, however, to set the basic rates for these systems.

We hope that the information provided in this Bulletin has been helpful. We will continue to provide issuing authorities with further information as the FCC develops rules to implement the Telecommunications Act. As always, please feel free to call Martha M. Leavitt, the Commission's Municipal Liaison, with questions on any cable matter. She can be reached at 617 727 6925.



John D. Patrone
Commissioner